

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Raymond Gonzalez,

Plaintiff,

vs.

Terry Stewart, et al.,

Defendants.

No. CV 02-1822-PHX-DGC

ORDER

Pending before the court is Plaintiff's Motion for Appointment of Counsel (Doc. #69). There is no constitutional right to appointment of counsel in a civil case. See Ivey v. Board of Regents of University of Alaska, 673 F.2d 266 (9th Cir. 1982). The appointment of counsel in a civil rights case is required only when exceptional circumstances are present. Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980); Wilborn v. Escalderon, 789 F.2d 1328 (9th Cir. 1986). "A finding of exceptional circumstances requires an evaluation of both 'the likelihood of success on the merits [and] the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved.'" Wilborn, 789 F.2d at 1331 (quoting Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)). The Court must review both of these factors together in deciding whether or not to appoint counsel. Id.

Plaintiff contends that the issues in his case are complex and that he does not have the ability to litigate his case and present it to the court. However, the case has been ongoing since 2002 and Plaintiff has been able to clearly articulate his claims and arguments up to this


1 point in the litigation. Plaintiff presented sufficient evidence and argument to overcome, in
2 part, Defendants' first motion for summary judgment. A second motion for summary
3 judgment is currently pending before the District Court and Plaintiff has not shown that he
4 is incapable of adequately responding to that motion. Plaintiff has failed to demonstrate that
5 exceptional circumstances in his case require the appointment of counsel. Accordingly, the
6 motion for appointment of counsel will be denied.

7 **IT IS THEREFORE ORDERED:**

8 That Plaintiff's Motion for Appointment of Counsel (Doc. #69) is **DENIED**.

9 DATED this 22nd day of May, 2006.

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Edward C. Voss
United States Magistrate Judge